G. R. S. IX-5]

Previous references.

G7 269-1921/183

File No. 104 - 20

1920.21

Serial Nos. 1 + 9

(G.7)

Later references.

G7158-201

6.10.03

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 + 2

Part B for October 1920

SUBJECT.

Claim to royalty on gold which was lately received by the Veterinary Dept: & accepted by the Darjeeling Commissioner

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KC 2 No.

WD 2233—GPB—20,000—11-6-20

24/1/21

G. R. S. III—1] 1920-21

GENERAL AND REVENUE SECRETARIAT.

(52)

NOTES.

File No. 104-20

FILE HEADING.

An old claim to royalty on gold lately noticed by Hon. M. N. Krishna Rao to H.E. Legy. & Govt.

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

D 1952.

G. R. S. III-2]

General and Revenue Secretariat.

G.2 — File No. 104 of 1920

Serial No.

When I was studying in the Comptroller's Office the Gold Mining Leases and the Annual -- Report and Accounts of the Companies, I noticed that the procedures adopted for payment of income tax upon dividends up to 1914 and after that year were different; and that the difference affected the calculation of Royalty payable to us. I wanted some information from the Companies for investiga ing the point that had struck me and I therefore started correspondence in April 1919. This corre pondence which I requested the Comptroller to con tinue has elicited the Companies' reply communica ed in letter dated 1st December 1919 from the -- Secretary & Treasurer, John Taylor & Sons Committ Ooregam. This reply confirms my suspicion that t amount on which the royalty payable on dividends was calculated up to 1914 was not correct. I accordingly submit this note.

2. Clause 9 of the Leases is as follows:--

"And also yielding and paying a royalty of 2½ per cent. upon the amount of dividends from -- whatever source derived as and when declared and made payable by the lessees to their shareholders.

According to this clause the Companies hav to pay us a royalty of 2½ per cent. on all divi- dends paid to their shareholders.

3. The practice of declaring dividends free of income-tax, was followed by the Companies until 1914 when they adopted the procedure of paying - dividends less income-tax. In cases where divi

declared

Note—Contn. sheet.

Serial No.

declared were free of income-tax, the royalty of 2½ per cent. payable to Government was calculated by the Companies on the amounts actually paid to the shareholders. This calculation, was not, I think, correct, as it overlooked the real nature of the income-tax paid on behalf of the shareholders.

4. Income-tax on dividends should be collected at the source and the obligation to deduct the tax assessed on dividends and to hand it over to the Revenue authorities rests with a company which makes a profit and distributes dividends to its shareholders. When a company declares dividends free of income-tax, the real amount of dividends is the sum actually distributed to the shareholders plus the sum paid as income-tax to Government on their behalf. A company's shareholders whose incomes are within the limits fixed for obtaining full or partial exemptions are entitled to have repaid to them the tax on the dividends paid by the Company. That the deductions made by the Company on account of income-tax are 'dividends' is evident from this right of shareholders to claim refund. From 1914 when the practice of declaring dividends less income-tax was adopted, the Companies have been paying the royalty of 2½ per cent. on the correct dividends including the income-tax paid to the British Government and this also shews that the calculation of royalty payable to the Mysore Government for the previous period on only

the

G. R. S. III-2]

General and Revenue Secretariat.

67 File No. 102 of 1920.

Serial No.

the share of the dividends actually paid to the shareholders was not right. That the income-tax paid by a company on the portion of its profits distributed as dividends among its shareholders is part of the dividends of the latter is, I think, too clear to need any argument to support it.

5. The information available in the annual reports of the Companies is not sufficient for making a correct calculation of the additional royalty payable for the period when the procedure of declaring dividends free of income-tax was in vogue. I believe the additional payment will amount to several thousands of rupees.

6. As under clause 9 of the Lease, the royalty of 2½ per cent. is due on all dividends paid to the shareholders, the calculation of this royalty should be based on the whole of the dividends paid to the shareholders and not only on the part of it handed over to them after payment of income-tax. The difference between the royalty already paid and that calculated on the correct amount of dividends is payble under the agreement and I suggest that this may be claimed from the Companies. A correct statement of all the dividends paid free of income-tax has to be obtained from the Companies so that we may verify the calculations and the balance of royalty still due. I think that the wrong calculation of royalty by the Companies was due to the misapprehension of the nature of income-tax paid upon dividends and the claim which,

NOTE—Contn. sheet.

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G. R S. III-2]

General and Revenue Secretariat. | 67 File No. 604 of 1919.

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I now suggest may be preferred, is likely to be admitted by the Companies as it is clear and indisputable.

7. The correspondence on this subject has hitherto been between the Comptroller and the Companies and I, therefore, propose that the draft put up, may, if approved, be issued by the Comptroller.

DEWAN, thro' First Member. 9.12.19

3777-225
10.12.19

19 DEC 1919 CONTROLLER'S RECORD CENTRE

DEWAN'S OFFICE. Recd. on DEC 15 1919 Reg. No. 14084

This is rather a subtle question & there is no doubt that the Corp. will try to wriggle out of it. But we have the first to ourselves before we are - or can be - generous to them. The Enquiry may I think be made therefore as proposed.

Dewan. 11.12.19

110 No. 243 19 DEC 1919 R

Draft approved by Dewan 15/12/19

The file is forwarded to the Compiler for issuing the draft. 17-12-19

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

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Serial No.

Page 4 of two Notes

5

The claim relating to a part of the royalty on dividends payable for the period from 1910 to 1914 but unpaid by the Companies, discussed in my note dated 9t December 1919, was preferred and the Companies admitte it in letter dated 17th March 1920 from the Secretary and Treasurer, Messrs John Taylor &-Sons Committee. -- The following amounts have been paid by the Companies to Messrs Coutts & Co. as reported by the Comptroller:

Mysore Gold Mining Company		£ 2,237- 4- 5.
Oorgaum	do.	670- 2- 3.
Champion Reef	do.	686-15- 0.
Nandydroog	do.	695- 0- 7.
		£ 4,289- 2- 3.

Two points arise for consideration in this connection: (1) The above amounts were payable from 1910 to 1914 and had they been paid in that period, we would have realised Rs.15 per £. At the rate of exchange prevailing on the dates on which the amounts were actually paid, the pound sterling was worth only about Rs.11. It seems to me that the difference is justly payable to us by the Companies. (2) The claim relating to the period from 1910 to 1914 remained undischarged for several years and I think that interest on the amounts with-held is also payable at a reasonable rate. The amount was payable by the Companies under the agreement but there was negligence on our part in not demanding it in the years concerned. ----

NOTE—Contn. sheet.

Whether

G. R. S. III-2]

General and Revenue Secretariat.

G.7 File No. 104 of 1920

Serial No.

Whether this negligence affects our claim to compensation on account of the depreciated rupee value of the pound sterling and to interest on the amount --- with-held for a number of years is a legal point on which the opinion of the Government Advocate is necessary.

Forwarded to the Government Advocate for --- favour of opinion on the points mentioned in paragraph 2. A copy of the agreement with the ~~Companies~~ Companies is put up for reference and the clause of the agreement relating to the royalty payable on dividends is ~~IX~~ 9.

Mr. Condon Ran
25/9/20

No. 1940/1920-21.
11.9.1920
Joint Secretary
21 SEP 1920

In the present case both the Compensation for depreciation of money due & interest are claimable only as damages. In the peculiar Circumstances of the Case neither party can be said to have unreasonably acted, the one as unduly delaying the making of the claim or the other by unreasonably withholding the payment of just dues. The non-payment is undoubtedly due to a bona fide mistake in Calculating the amount payable, a mistake shared in alike by both the debtor & the creditor. Nevertheless I do not think we are in law precluded from

NOTE—Contn. sheet.

952 (W.S.) 1207

G. R. S. III-2]

General and Revenue Secretariat.

97 File No. 104 of 1912-0

Serial No.

making the claim. Seeing how readily the mining Companies have fallen in with the views of the Financial Secretary in regard to the main claim, it would be very graceful if we do not press our claim for interest, for after all it is discretionary with Courts of justice to allow interest in the shape of damages. A letter may be addressed in the first instance pointing out how we have suffered pecuniarily both by the fall in Exchange & by the money not having been available for our use during all these years. Probably the Company may be inclined to accept our claim for Compensation on account of depreciation in Sterling value - If they decline to meet our claim then we may press it on legal grounds. The Equitable aspect of our claim may likely appeal to the Mining Authorities & there may probably be no need to press it on the legal basis.

21.9.20

H. Srey)
&

mad 21/9/20

The Case may perhaps be Submitted for perusal.

Dewan Bdr
Fort Member)

mad 22/9/20

mad 23/9

be returned
& Claim

NOTE—Contn. sheet.

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24/9

1209 8

G. R. S. III-2]

General and Revenue Secretariat.

GT File No. 104 of 1920.

Serial No.

DEWAN'S OFFICE.
Recd. on SEP 28 1920
Reg. No. 2825

DEWAN'S OFFICE.
Recd. on OCT 4 1920
Reg. No. 3019

13

NOTE—Contn. sheet.

G/7104-20 9

Submitted to His Highness.

***

I beg to report for the gracious information of His Highness an old claim to royalty on gold which was lately noticed and accepted by the Companies. The new arrangement of an additional royalty of 2½ per cent calculated with reference to dividends came into force in 1910 and from that year to 1914, the Companies declared dividends free of income-tax. That the income-tax paid by the Companies on behalf of their share-holders, though shewn in their accounts as a charge on account of income-tax, was in reality part of the dividends paid to the share-holders and that accordingly royalty was payable to us in respect of such income-tax as well was overlooked both by us and by the Companies. This point was noticed by Mr. M. N. Krishna Rao, when he was Comptroller, and he opened correspondence with the Companies for verifying it. His suspicion having been confirmed by the information furnished by the Companies, he explained the case in his note dated the 9th December 1919 and suggested a reference to the Companies. This was authorised and the Companies have admitted the claim and paid a sum of £4,289-2-3. In his note dated the 20th September 1920, Mr. M.N. Krishna Rao has raised two points in connection with this payment:-

Z

Pages 1 to 4 of Office Notes

H

Pages 5 & 6 of Office Notes

(1) The royalty under consideration was payable from 1910 to 1914 and had it been paid in that period, we would have realised Rs.15 per £. At the rate of exchange prevailing on the dates on which the amount was paid, the pound sterling was worth only about Rs.11. He has raised the point whether the difference may not be claimed

claimed from the Companies.

(2) The claim relating to the period from 1910 to 1914 remained undischarged for several years and he has raised the further point whether interest on the amounts withheld is not payable at a reasonable rate by the Companies.

Page 627 of Office Notes

2. The Government Advocate was consulted on these points and he considers that the claim for interest may be waived and that compensation on account of depreciation in the rupee value of pound sterling may, however, be claimed.

Page 8 of ditto

The First Member is of opinion that we are as much responsible as the Companies, for not collecting this extra royalty in time and that the claim to both the items may be waived and I agree with him.

3. The discovery of the claim depended upon a minute examination of the Balance Sheets of the Companies and credit is due to Mr. M.N. Krishna Rao for having detected it and put matters right.

13th Oct. 1920

G 7104-20 11

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

Papers relating to an old claim to royalty on gold which was lately noticed by the Financial Secretary and accepted by the Mining Companies.

429.
With Do letter No 102 S 16.10.20.

Order.

~~KRW~~
15/10/20

ch 16
16.10.20

The Palace, Mysore,

G7 104-20-1 16th October 1920.

My dear Sir,

In returning the accompanying file, I am directed to say that His Highness appreciates Mr. Krishna Rao's action in bringing this old claim to light.

Yours sincerely
Mirza M. Ismail

Rajasevadhurina

Sirdar M. Kantaraj Urs, C.S.I.,

Mysore.

ISSUED. 25/10/20

592 CB dy 25/10/20. 13

To

97 104-20-2

M.N.Krishna Rao, Esqr., B.A.,
Financial Secretary to Govt.

Dear
Sir,

I have much pleasure in informing you
I ~~am directed to state~~ that His Highness the Maharaja has been pleased to appreciate your action in bringing to -- light an old claim to royalty on Gold amounting to £4289-2-3 which the Gold Mining Companies have since accepted and paid to the Government.

Yours sincerely
~~I have etc.~~,

CBB 27/10

Chief Secy to Govt.

256
19/11

E 7104-20 14

From

The Comptroller to the
Government of Mysore,

To

The Secretary & Treasurer,
Messrs. John Talor & Sons, Committee,
OOREGAM.

Sir,

I have the honour to acknowledge with thanks the receipt of your letter dated the 1st December 1919 furnishing the information requested in my letter dated the 12th September 1919.

It is stated in the extract from the ~~in~~ letter of Messrs. John Taylor & Sons communicated by you that "the question of Income-tax on dividends did not arise prior to 1914, as the dividends were then declared, of a net -- amount per share." The royalty payable to the Mysore Government under clause 9 of the Lease has been calculated prior to 1914, upon the net amount of dividends actually paid to the shareholders. The real dividends paid to shareholders are the gross amount, including the -- income-tax paid on their behalf, and the ~~x~~ - royalty payable under clause 9 has to be calculated upon the gross dividends, and not, upon the net dividends. I shall be obliged if you will be so good as to let me know if this is not the correct position; if it is, I request that -- arrangements may be made for paying the balance of royalty still due.

I have, etc.,

Comptroller.

Lees
15.12.19

9-12-19

15

G. R. S. III-2]

General and Revenue Secretariat.

47 File No. 104 of 1920

Serial No.

HLO Note no. 221/R.D/1923-1920
2063 Books

I place in the file a copy of letter dated 17th March 1920, received from -- Messrs. John Taylor & Sons-Committee, Ooregaum in reply to the communication addressed to him in the matter of calculating the Royalty at 2½% payable on the gross amount of dividends paid to shareholders instead of on the net amount after deducting income-tax.

J. Satyanarayan Chetty
Comptroller.

CV/19-3

2756/2063

Eisle

NOTE—Contn. sheet.

£7104-20 16

Letter dated the 17th March 1920 from the Secretary and Treasurer, Messrs. John Taylor & Sons' Committee, Ooregaum, to the Comptroller to the Government of Mysore, Bangalore.

=====

Companies' Income Tax.

With further reference to your letter No.Book 1390 of the 20th December last, I have the honour to quote below, for your information, an "Extract" from our London Managers' letter of the 19th February, viz., -

" COMPANIES' INCOME TAX. With further reference to Mr.R.Nye's " letter to us dated the 24th December last, with copy of " Comptroller's letter attached dated 20th December 1919, the "question of Royalty on the gross amount of Dividends paid " by the Indian Companies free of Tax and applicable to a " period dating as from the 23rd March 1910, has now been "considered, and the Boards of the Companies concerned have "agreed that the Comptroller's claim is admissible. Cheques "for the additional Royalty will in due course be remitted "to Messrs. Coutts & Company for account of the Mysore "Government."

Requesting the favour of an acknowledgment at your convenience.

" Copy "

Superintendent, Comptroller"s Office,
Gold Books ~~Records~~ Section.

CV/19-3

Please address all future communications to the Comptroller to the Govt. of H. H. the Maharaja of Mysore.
In reply to this Comm. please refer to
No. 400/Books.

OFFICE OF THE COMPTROLLER TO THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Dated, Bangalore, the 1st September 1920.

DIARY No. 1278

19 — 18
Section.
File No.
Serial No.

FROM

T. Satyaraj Chetty., Esq., B.A.,
~~M. N. Krishna Rao, Esq., B.A.,~~
Offg. Comptroller to the Government of His Highness the Maharaja of Mysore.

To

M. N. Krishna Rao, Esq., B.A.,
Secretary to the Government of Mysore,
Financial *Department.*

SIR,

In continuation of this office letter No.2688/Books dated 4th June 1920, returning duly verified the statement showing the amount of Royalty paid by the Nundydroog Gold Mining Company due on income-tax on dividends paid free of tax from 1910 to 1914, I have the honor to report for the information of Government that the other - Mining Companies have also paid similar dues on account of 2½ % -- Royalty on the said amounts as detailed below:-

Mysore Gold Mining Company		£ 2237- 4-5
Oorgaum do		670- 2-3
Champion Reef do		686-15-0
Total	...	£ 3594- 1-8

The total amount paid on this account including £695-0-7 paid by the Nandudroog Company amounts to £ 4289-2-3.

I have the honour to be,
Sir,
Your most obedient servant,

T Satyaraj Chetty
COMPTROLLER.

VM

JRS.

WD.0222—GPB—3,000—14-12-16

C. O. 42–Rec.—17]

....Department

191 .

FROM

M. N. KRISHNA RAO, ESQ., B.A.,
Offg. Comptroller to the Govt. of
H. H. the Maharaja of Mysore.

To

.....ESQ.,
Secretary to the Govt. of Mysore,
Dept.

Dated

Despatched

Received

No..... ....

Subject matter.